IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION ST.NO.31 OF 2005

IN

WRIT PETITION NO.1637 OF 2003

Mohamed Yusuf Abdul Karim
Shaikh and Ors. .. Applicants

Versus

Abdul Rehman Qureshi .. Respondent

Mr.V.V.Purvant for applicants

Mr.Mulay for Mr.G.S.Godbole for respondent

CORAM : S.C.DHARMADHIKARI,J.
Vacation Judge.

DATE : JANUARY 7, 2005.

P.C.

. Respondent landlord filed a suit for possession against applicants in the trial court and a decree was passed for possession on the ground of bonafide and reasonable requirement on 14th February 1998. Civil appeal challenging the same was also dismissed on 28th November 2002. Applicants filed writ petition challenging these orders. It was also dismissed on 21st June 2004 and time was granted till 31st December 2004 to vacate the premises.

2. Supreme Court has not interfered with the judgement of this Court dismissing the petition but has permitted applicants to apply to this Court for extension of time to vacate the suit premises. Accordingly, present application is filed.

3. Learned Counsel appearing for applicants submits that applicants are working as labourers on daily wages and that their school going

children are appearing for examination in the month of March- April 2005. Considering their financial position and that examinations are being held in next three months, this Court should extend time to vacate granted earlier till 30th April 2005. Learned Counsel further submits that the applicants are willing to furnish an undertaking to this Court that on expiry of the said period, vacant and peaceful possession of suit premises would be handed over and in default, the landlord is at liberty to execute decree with police aid..

4. This application is strongly opposed by Mr.Mulay appearing for Mr.Godbole for respondent. He submits that respondent is 76 years old and in suit filed in 1979 for possession, decree passed in his favour has not been executed till date.

5. In my view, considering the hardship to the school going children last chance deserves to

be granted to applicants. Accordingly, the decree passed by the trial court not to be executed till 30th April 2005 on applicants furnishing an undertaking within a period of 10 days in this court to the following effect:

a) that applicants and their family members, including school going children alone are in possession of the suit premises and that none other than applicants and their family members are inducted in the same;

b) that the premises would not be parted with, alienated, encumbered or disposed of in any manner whatsoever;

c) that applicants shall not induct anobody in the premises and would continue to pay rent in respect of suit premises till 30th April 2005;

d) that applicants shall hand over vacant and peaceful possession of the suit premises to respondent on expiry of the period specified above;

e) In the event undertaking is filed within the period specified above, decree shall not be executed till 30th April 2005. Needless to observe that upon failure to furnish undertaking, decree can be executed forthwith.

f) Similarly on applicants not vacating premises as undertaken on 30th April 2005, it will be open for respondents to execute the decree and if necessary with police help.

All concerned to act on an authenticated copy of this order.

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